

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ADAM MIKEL ROSEMAN

Plaintiff,

v.

ALLIED VAN LINES,

Defendant.

CIVIL ACTION
NO.

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW, Defendant ALLIED VAN LINES, INC. improperly named as ALLIED VAN LINES (hereinafter "Defendant"), by and through counsel, and files this Notice of Removal as follows:

1.

Plaintiff ADAM MIKEL ROSEMAN (hereinafter "Plaintiff") filed a civil action against Defendant in the Magistrate Court of Gwinnett County, State of Georgia, Civil Action File No. 16M37691. A copy of the Statement of Claim is attached hereto as Exhibit "A".

2.

At the time of the filing of the Statement of Claim, upon information and belief, Plaintiff was a Georgia citizen, residing at 900 Marseilles Drive, Atlanta, Fulton County, Georgia 30327.

3.

At the time of the filing of the Statement of Claim, Defendant was, and is, a Delaware corporation with its principal office located at 5001 U.S. Highway 30 West, Fort Wayne, Indiana 46818.

4.

Plaintiff purportedly served Defendant through its registered agent for service of process on December 27, 2016. (See Sheriff's Entry of Service, Exhibit "B"). This Notice of Removal is timely because it is filed within thirty (30) days after receipt by Defendant of a copy of the initial pleading setting forth the claim upon which this action is based. 28 U.S.C. § 1446(b).

5.

Plaintiff alleges in its Statement of Claim that Defendant is liable for damages in excess of \$10,000, exclusive of interest and costs, related to alleged loss and damage to goods. (See Statement of Claim, Exhibit "A").

6.

The foregoing magistrate court action is properly removable to this Court, pursuant to 28 U.S.C. §§ 1331 and 1337, in that it arises out of interstate commerce under the laws or treaties of the United States, with an amount in dispute exceeding \$10,000, exclusive of interest and costs.

7.

Plaintiff's state law claims are completely preempted by 49 U.S.C. § 14706, et seq. See Georgia, Florida and Alabama Ry. Co. v. Blish Milling Co., 241 U.S. 190 (1916); Smith v. United Parcel Svc., 296 F.3d 1244, 1247 (11th Cir. 2002).

8.

Removal to this district is proper, pursuant to 28 U.S.C. § 90.

9.

Defendant hereby gives notice within thirty (30) days after service and receipt by Defendant of a copy of the Statement of Claim filed in the Magistrate Court of Gwinnett County, State of Georgia, pursuant to 28 U.S.C. § 1446 and Rule 11 of the Federal Rules of Civil Procedure, of the removal of said action to this Court.

9.

Defendant has filed a Notice of Removal in the Magistrate Court of Gwinnett County, State of Georgia. A copy of the Notice of Removal, exclusive of exhibits, filed with the Magistrate Court of Gwinnett County is attached hereto as Exhibit "C".

10.

Good and sufficient defenses to Plaintiff's claim exist.

11.

No previous application for the relief sought herein has been made to this or any other Court.

WHEREFORE, it is hereby requested that this Court grant the removal of this case to the United States District Court for the Northern District of Georgia, in which district this suit is pending.

/s/ Scott W. McMickle
SCOTT W. MCMICKLE
Georgia Bar No. 497779
/s/David L. Schwartz
DAVID L. SCHWARTZ
Georgia Bar No. 406627
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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2017, I electronically filed **DEFENDANT'S NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

None

And by depositing same in the United States Mail in a properly-addressed envelope with adequate postage thereon to:

Mr. Adam Mikel Roseman
900 Marseilles Drive
Atlanta, GA 30327

/s/ Scott W. McMickle
SCOTT W. MCMICKLE
Georgia Bar No. 497779
/s/David L. Schwartz
DAVID L. SCHWARTZ

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THIS IS TO CERTIFY that, pursuant to LR 5.1B, NDGA, the above document was prepared in Times New Roman, 14 pt.